IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR

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CIVIL REVISION No. 116 of 2007

BADHIR KALYAN VIKAS SAMITI
V/S
RAJENDRA KUMAR & ORS.

Mr. KC SAMDARIYA, for the appellant / petitioner

Mr. PANKAJ GUPTA, for the respondent

Date of Order : 26.7.2007

HON'BLE SHRI N P GUPTA,J.

ORDER

Heard learned counsel for the petitioner.

Learned counsel had read to me the award passed by the learned Tribunal. The Tribunal has set aside the termination of the employee, and has ordered him to be reinstated w.e.f. 31.5.1993, and directed him to be entitled to pay and emoluments w.e.f. the date of judgment i.e. 15.1.1996. Learned Executing Court has disposed of the objections, and has held the employee entitled to the pay, and allowances as applicable to his category of teachers in the Government Education Institutions.

It is contended by the learned counsel for the petitioner that according to Rule 34 the pay scales and allowances applicable to Government teachers are applicable to the teachers serving in the aided institutions, while the petitioner is non-aided institution, and according to

the Government circular dt. 29.7.98 it has been clarified that the pay scales applicable to Government teachers does not apply to the teachers serving in non-aided institutions, and that in such case of employee of non-aided institution, the matter shall be governed by mutual agreement. In that view of the matter, it is contended that the learned Executing Court was required to adjudicate as to what was the terms agreed between the parties, and thereafter only should have arrived at conclusion as to how much amount the employee is entitled to.

I have considered the submissions. Learned counsel read to me the appointment order of the respondent wherein he has been appointed in the third scale of pay being 1200-2050 at a starting minimum of Rs. 1200/-. Regarding other allowances, it is agreed that the allowances admissible to Government teachers, Education Department/according to rules of the institution would be admissible. Learned counsel for the petitioner could not point out either before the learned Executing Court, or before this Court as to what are the rules about the allowances prevailing in the institution. In that view of the matter, even as per the notification of the Government dt. 29.7.98 read with appointment order, the allowances are admissible as are applicable to employees of Education Department.

So far as the pay is concerned, from appointment

order it is clear that he was appointed in the third scale being 1200-2050 obviously, therefore, the petitioner would be entitled to pay scale computed w.e.f. 31.5.1993 from which date he has been reinstated, and after making appropriate fixation in that scale he would get actual payment of the pay and allowances from 15.1.1996.

Accordingly, the impugned order is clarified/modified, and the learned Executing Court is directed to determine the exact amount as above, and proceed to recover the same. The revision petition is disposed of.

( N P GUPTA ),J.

/sushil/